

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JEFFREY DAVID VOLOSIN,

Case No. 3:23-cv-00362-MMD-CSD

Petitioner,

ORDER

v.

TIM GARRETT, *et al.*,

Respondents.

Pro se Petitioner Jeffrey David Volosin filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. (ECF No. 1-1 (“Petition”).) On July 25, 2023, this Court ordered Volosin to show cause why the Petition should not be dismissed as untimely and/or unexhausted. (ECF No. 6.) Volosin responded and moved for a stay. (ECF Nos. 8, 10.)


Regarding exhaustion, this Court noted that Volosin’s ineffective assistance of counsel claims have not been exhausted because his state postconviction appeal is still pending. (ECF No. 6 at 5.) Volosin explains that his instant Petition is a protective petition, requesting that this matter be stayed while he exhausts his state remedies. (ECF No. 10 at 33-34.) And regarding timeliness, this Court noted that, absent another basis for tolling or delayed accrual, Volosin’s statute of limitations expired on or about March 16, 2019, making his instant Petition, filed on July 18, 2023, untimely on its face. (ECF No. 6 at 3.) Volosin now argues that this Court should find that the statute of limitations for his instant Petition did not start to run until June 3, 2020, which is the date that he discovered the factual predicate of his ineffective-assistance-of-trial-counsel claims through his trial counsel’s testimony at a hearing on his motion to enforce his guilty plea. (ECF No. 10 at 13.) Alternatively, Volosin seeks to avoid application of the limitations period based on a claim of actual innocence. (*Id.* at 16-33.)

1 Given Volosin's responses to this Court's order to show cause, the Court finds that
2 it would benefit from a response from Respondents.

3 It is therefore ordered that the Clerk of Court: (1) add Aaron Ford, Attorney General
4 of the State of Nevada, as counsel for Respondents; (2) electronically serve
5 Respondents' counsel a copy of the Petition (ECF No. 1-1); and (3) electronically provide
6 Respondents' counsel a copy of this order and copies of all items previously filed in this
7 case by regenerating the Notices of Electronic Filing.

8 It is further ordered that Respondents' counsel enter a notice of appearance within
9 21 days of entry of this order and respond to Volosin's response to the order to show
10 cause and motion for stay (ECF Nos. 8, 10) within 60 days of the date of this order.
11 Volosin may file a reply within 30 days following receipt of Respondents' response.

12 DATED THIS 28th Day of September 2023.

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16 MIRANDA M. DU
17 CHIEF UNITED STATES DISTRICT JUDGE
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